

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

In RE: . Docket #MDL-12-2323 (ABB)
National Football League .
Players' Concussion Injury . United States Courthouse
Litigation, . Philadelphia, PA
September 19, 2017
10:05 a.m.
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TRANSCRIPT OF HEARING
BEFORE THE HONORABLE ANITA B. BRODY
UNITED STATES DISTRICT COURT JUDGE

APPEARANCES:

For The Plaintiffs: Christopher Seeger, Esq.
Seeger Weiss, LLP
77 Water Street
New York, NY 10005

TerriAnne A. Benedetto, Esq.
Seeger Weiss, LLP
1515 Market St.-Ste. 1380
Philadelphia, PA 19102

Sol Weiss, Esq.
Anapol Schwartz Weiss Cohen
1710 Spruce Street
Philadelphia, PA 19103

For The Defendants: Bruce Birenboim, Esq.
Paul Weiss Rifkind Wharton
& Garrison, LLP
1285 Ave. of the Americas
New York, NY 10019

Brad S. Karp, Esq.
Paul Weiss Rifkind Wharton
& Garrison, LLP
1285 Ave. of the Americas
New York, NY 10019

Douglas M. Burns, Esq.
Paul Weiss Rifkind Wharton
& Garrison, LLP
1285 Ave. of the Americas
New York, NY 10019

(In-House Counsel For NFL)

Anastasia Danias, Esq.
NFL Properties, LLC
280 Park Ave.
New York, NY 10017

Claims Administrator:

Orran L. Brown, Esq.
Brown Greer, PLC
250 Rocketts Way
Richmond, VA 23231

For Non Parties RD Legal
Funding, LLC, et al.:

David W. Willingham, Esq.
Boies Schiller & Flexner, PC
31st Fl.
725 S. Figueroa St.
Los Angeles, CA 90017

Ellen Brotman, Esq.
Brotman Law Firm
Ste. F200
150 N. Radnor Chester Rd.
Radnor, PA 19087

(Via Telephone)

For The Plaintiffs:

Ashley Torres, Esq.
Jaakan Williams, Esq.
Enigan Aladejana, Esq.

Audio Operator

James F.G. Scheidt

Transcribing Firm:

Writer's Cramp, Inc.
63 Dakota Drive
Hamilton, NJ 08619
609-588-8043

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1 THE COURT: We're here in the matter of the National
2 Football League Players' Concussion Injury Litigation, at MDL-
3 2012-2323 -- excuse me. And I recognize the presence of
4 Mr. Seeger.

5 MR. SEEGER: Good morning, Your Honor.

6 THE COURT: And with you is -- Ms. Benedetto?

7 MS. BENEDETTO: Yes, Your Honor.

8 THE COURT: Okay. Okay. And your partner? Your
9 co-counsel, Mr. Birenboim.

10 MR. BIRENBOIM: Good morning, Your Honor.

11 THE COURT: For the NFL. And Mr. Karp.

12 MR. KARP: Good morning, Judge.

13 THE COURT: Okay. Anastasia.

14 MS. DANIAS: Good morning, Your Honor.

15 THE COURT: I only know you as Anastasia from the
16 NFL. Sorry about that. She's a lawyer for the NFL. Okay.
17 The Court is concerned about reports of deceptive practices
18 targeting settlement class members in the NFL Players
19 Concussion Injury Litigation. Such practices allegedly
20 involve potentially misleading solicitations, seeking to take
21 advantage of class members. This is of great concern because
22 many class members may be suffering from significant cognitive
23 impairment.

24 The hearing today will provide co-lead class counsel with
25 an opportunity to raise issues regarding deceptive practices.

1 The hearing is exploratory in nature and it is designed to
2 allow me to determine whether it should be -- whether I should
3 pursue further action. Therefore, there will be no cross
4 examination or rebuttal. We are here simply to allow co-lead
5 class counsel to raise allegations for the court's further
6 consideration.

7 Okay. Thank you. Turn it over to you, Mr. Seeger.

8 MR. SEEGER: Thank you, Your Honor. I have just a
9 couple of minutes and then my partner, Terri Benedetto, is
10 going to handle the --

11 THE COURT: Okay.

12 MR. SEEGER: -- rest of the presentation. Your
13 Honor, thank you for your time here. We think this is an
14 important matter that we want to discuss with you. Obviously,
15 I recognize that this is a presentation just made by co-lead
16 counsel. There are people in the courtroom that are here that
17 probably have their view of it, and frankly, we don't know
18 what that is at this point because it's exploratory.

19 So I'm not looking to ruffle feathers or to cast
20 allegations wildly out there about people's conduct or their
21 motives, but we are seeing things that we think we need to at
22 least bring to your attention. Before I get into that, I'd
23 like to just point out that nothing that's going on in this
24 courtroom is holding up, or preventing, claims from being
25 processed in the settlement. The settlement is actually

1 working perfectly, Your Honor.

2 With every settlement, there are wrinkles in the
3 beginning, things move a little slowly. As we work them out
4 -- as the parties come together and work these things out,
5 things are beginning to move well. Just as a reminder, we
6 have over 20,000 registrations so far. There are over 1,200
7 claims that have been submitted to the claim administrator
8 already. Over \$130 million in claims have been approved for
9 payment. And there are 2,200 retired players scheduled for
10 BAP examinations through the end of the year. So it's up and
11 running. Things are going well. And this is not going to
12 hold that back. And we're not going to let anything that goes
13 on here with this investigation hold back the settlement
14 process.

15 But I do think it's the duty of class counsel to protect
16 the class against sharp practices. And we believe we've
17 identified some and we're going to make a presentation to you
18 now about that. This has been a hard fought settlement. And
19 the last thing I would want to see happen as co-lead counsel,
20 and I know the PSC and Mr. Weiss, who's here, agrees with me
21 on this, is to watch these awards be cannibalized by usurious
22 loans, excessive fees being charged by claim service
23 providers. I just don't feel like I'm going to stand by and
24 let that happen. And I know that court, as a fiduciary for
25 the class, feels the same.

1 And what we've identified, and Terri's going to make this
2 presentation, are really several categories where we're
3 concerned. One is usurious loans. Although they have been
4 disguised in some ways as an assignment of a property right,
5 which would be prohibited by the settlement frankly, they're
6 really loans that seem to be designed to return to the lenders
7 30, 40, 100% interest rates. And Terri has examples of that
8 she'll go into.

9 We've also identified certain claim service providers.
10 These are entities that have come up really after the
11 settlement. They weren't involved before the settlement that
12 we know of. They've sprung up after the settlement. And they
13 are purporting to represent players and to file claims on
14 their behalf and they're charging fees for it. They also seem
15 to be working with attorneys who are doing that, who also have
16 shown up after the settlement of the case, were not involved
17 earlier, and have done a good job sort of luring clients away
18 from law firms that have been involved in this case for the
19 last six, seven years and longer.

20 But when you look at this as a whole, what we're
21 concerned about is we're seeing 20, 25% in fees being charged
22 and divided between lawyers and non-lawyers. So there are
23 some concerns there.

24 And then finally, we've seen some evidence that -- and
25 this is one of the most concerning parts, that we've seen some

1 evidence that we will present today that suggest that certain
2 claim service providers might be working with lenders in
3 certain law firms to try to cheat the settlement. And we've
4 seen a couple of things that concern us. One is there seems
5 to be an effort to coach players as to how to take the BAP
6 tests or the neuropsychological tests, in a way that would
7 cheat them, defeat them, fail them, however you want to say
8 it, but would get a result that's not accurate.

9 And then we've also seen some evidence that some of these
10 claim service providers are working very closely, and some
11 evidence suggests too closely, with doctors that seem too
12 willing to work with them to help submit claims that may not
13 be totally accurate.

14 Again, these are just suggestions. You know, we're going
15 to show you what we have on it. But if any of it turns out to
16 be true, I think we'd all be very concerned about it. And the
17 last thing I want to say is that if there's anybody listening
18 in on this, that thinks that the lawyers involved who have
19 represented this class for a number of years will lay down on
20 any of these issues, they're making a very big mistake. I
21 will go after these issues, bring them to Your Honor, and we
22 will continue to stay on top of this until we're sure they're
23 gone.

24 THE COURT: There's also a companion case in New
25 York City -- I mean, in the Southern District of New York --

1 MR. SEEGER: Correct.

2 THE COURT: -- on this -- on some of the same
3 issues.

4 MR. SEEGER: Correct.

5 THE COURT: I mean, just -- not specifically geared
6 to the NFL, but geared to whether or not these practices are
7 legal or not legal.

8 MR. SEEGER: You're right, Your Honor. And Terri is
9 going to now come up and give you a sampling of what we've
10 seen. Now, we've done discovery so far, just so you know, on
11 36 different persons and groups. And there have been about
12 14,000 pages of discovery produced to us. So many have
13 cooperated, and I think that's a good thing. And what we'll
14 do is we'll give you a brief look at what we have.

15 THE COURT: Do you plan to have any of them testify?

16 MR. SEEGER: No. Today's presentation is just Ms.
17 Benedetto just showing the court objectively what we have
18 seen. And then we're going to -- she will ask at the end for
19 where we think this should go next.

20 THE COURT: Okay.

21 MR. SEEGER: If that's okay.

22 THE COURT: All right. Okay. Ms. Benedetto?

23 MS. BENEDETTO: Good morning, Your Honor.

24 THE COURT: Good morning.

25 MS. BENEDETTO: I do have hard copies of the

1 PowerPoint.

2 THE COURT: The problem is that it's hard to hear
3 you. Jim, what are we going to do?

4 MS. BENEDETTO: Is that better, Your Honor?

5 THE COURT: Yes, it is.

6 MS. BENEDETTO: Okay. Your Honor, I have hard
7 copies of the PowerPoint to hand up for you and your law
8 clerk.

9 THE COURT: Okay. Thank you. One for you and one
10 for me, I assume.

11 (Pause in the proceedings)

12 THE COURT: Okay, thank you.

13 MS. BENEDETTO: Your Honor, I've also handed up a
14 zip drive which I will discuss in a few moments. So today,
15 Your Honor, we're here because we want to report to the court
16 on what we've been -- basically been doing since the court
17 issued the July 19th order directing co-lead class counsel to
18 conduct discovery. And as Chris mentioned, we've served
19 discovery upon 36 groups of persons and entities. And it went
20 out in waves. Basically, we sent out the initial discovery
21 and then we learned some things from speaking with those
22 respondents' lawyers. And we learned some things from the
23 documents that those respondents produced. And then we sent
24 out subsequent waves.

25 We've also learned about additional entities from the

1 latest waves that we sent out of discovery who we have not yet
2 had an opportunity to serve discovery upon. Also as Chris
3 mentioned, we've received from certain respondents who have
4 provided responses that 14,000 pages of documents, and we've
5 also conducted three depositions. And we'll report on the
6 information gleaned from those today. However, some of those
7 upon whom we've propounded discovery have either ignored the
8 discovery requests or they have claimed that they are third
9 parties and that we were required to serve subpoenas.

10 As the court is aware, we've filed motions to compel as to
11 certain of those. And one of those entities, Case Strategies
12 Group, formerly known as NFL Case Consulting, actually on
13 Friday filed a motion with Your Honor under 1292(b) to seek an
14 interlocutory appeal of Your Honor's order directing that
15 entity to provide co-lead class counsel with the names of
16 those retired players who they've solicited, the names of
17 those retired players, and to whom they've entered into
18 contracts and copies of those contracts.

19 Co-lead class counsel, we're confident that this court is
20 fully authorized to order persons in the shoes of those like
21 Case Strategies Group, who have basically created a business
22 seeking to profit from the settlement rest before Your Honor,
23 and the class members before Your Honor.

24 So the types of entities that we've --

25 THE COURT: Do you have some -- do you know -- are

1 you aware of some of the -- excuse me -- of the players that
2 have been approached in this regard?

3 MS. BENEDETTO: With respect to Case Strategies
4 Group, Your Honor --

5 THE COURT: Yes.

6 MR. BENEDETTO: -- we are, because we also served
7 discovery upon the law firms that Case Strategies Group would
8 refer its clients to. So we do know the names. Those -- most
9 of those law firms have actually provided us with a list of
10 their clients. So we do know the relationship that there was
11 certain of those clients who both are retained by those five
12 law firms and also have contingent fee agreements with Case
13 Strategies Group.

14 THE COURT: And have you endeavored to take
15 depositions of any of those of your own clients, if you will?
16 Not your own clients, because you're class counsel. Of any of
17 the players that are involved?

18 MR. BENEDETTO: The only retired play who we've
19 deposed is Mr. Joe Pisarcik and that was in connection with
20 two law firms that had returned Mr. Pisarcik to basically
21 solicit fellow players. They sent out e-mails and letters
22 under Mr. Pisarcik's name. I -- that's actually -- toward the
23 end of the presentation, I do have some documents.

24 THE COURT: Okay. All right. Good.

25 MR. BENEDETTO: So there are basically four types of

1 entities that we've sought discovery from. These funders or
2 lenders, the claim service providers, law firms, and retired
3 players. Some of these entities have been using the retired
4 players to actually solicit fellow retired players to contract
5 with the entities and are paying them commissions. So that's
6 troubling in that, you know, a retired player would certainly
7 trust one of his brethren to not lead him astray. And so
8 that's a further concern that we have.

9 And a real troubling fact that we've learned from this
10 discovery effort is that some class members are going to have
11 agreements with a claim service provider, a funder, and a law
12 firm. So we're concerned that after paying all of these other
13 entities that these sick, retired players and their families
14 are going to be left with little money from their monetary
15 award. We have prepared for Your Honor, and I have a zip
16 drive. It contains the names of 958 retired players who have
17 contracted either with a claim service provider and a funder,
18 and also a law firm, so that Your Honor can appreciate. And
19 we did it for our own purposes as well, to basically see how
20 many of these retired players are actually having their
21 monetary awards usurped by various factions.

22 THE COURT: You're close to 1,000, is that what
23 you're saying?

24 MS. BENEDETTO: It is, Your Honor. And we provide
25 that to you. Some of the entities who have provided us with

1 documents have done so contingent upon keeping the names of
2 the class members confidential. So it was not our intention
3 to file this Excel spreadsheet publicly. We could certainly
4 do so and redact their names. But we have provided it to Your
5 Honor.

6 THE COURT: Okay, thank you.

7 MS. BENEDETTO: So this is a list of the funders and
8 brokers who we have served discovery upon. We learned that
9 there are different types of these entities. Certain funders
10 both actively solicit and lend the monies. Then there are
11 some who only lend the monies, and some who only provide leads
12 or they're called brokers. So the brokers are lead
13 generators. They're actually the ones who solicit actively.
14 And then once they know of a player who would like to borrow
15 money, they refer that player to an actual funder.

16 It was interesting because some of these entities, you
17 know, the broker points the finger at the funder and the
18 funder points the finger at the broker. So the broker says,
19 you know, we didn't actually lend any money to the players.
20 All we did was provide leads to the people who did. And then
21 the funder says, well, we didn't actually solicit players. We
22 just provided the funds. So to the -- they claimed. So to
23 the extent there was any impropriety in the solicitation, they
24 sort of are absolved from that.

25 So we did receive documents from several of these brokers

1 and the -- a large benefit of that was that they identified
2 additional lenders that we hadn't previously been aware of.
3 And one of those is Case 4 Cases. And they actually -- this
4 particular player, he received \$84,812 from the funder. And
5 he will owe back \$161,000. So that's an interest rate of
6 almost 100%.

7 So ultimately our focus became the actual funders as
8 opposed to these brokers. So many of these contracts are just
9 of inordinately high interest rates. But as Chris mentioned,
10 what they've done is they've couched them as assignments as
11 opposed to loans. So it's likely their belief that they can,
12 in that way, avoid the usury laws.

13 So as the Court is well aware, there's a provision in the
14 settlement agreement which states that there can be no
15 assignment of claims and that if an attempt to do so, that
16 that alleged assignment will be void, invalid, and of no force
17 and effect. And despite that, we know of at least 200 class
18 members who have entered into these {quote}{unquote}
19 "assignments with funders."

20 As Your Honor previously referenced, RD Legal has 7 of
21 those, Thrivest has 42, Atlas has 38, 25 of which they sold to
22 another funder, Peachtree has 32, Global Financial has 47.
23 And as yet, we haven't received discovery from some of the
24 other funders that we've learned about through these brokers
25 and through class members, frankly, who have contacted us in

1 conjunction with these discovery efforts.

2 So these are the particular funders we would like follow
3 up from. Pravati and Top Notch Funding simply ignored the
4 discovery requests. As Your Honor is aware, Justice Funds,
5 which is -- Justice Funds is represented by the same counsel
6 as Case Strategies Group and is also of the mind set that Your
7 Honor doesn't have the authority to order discovery from that
8 entity without a subpoena. And Cambridge Capital is -- I'll
9 get to that later. That is the funding entity that is
10 associated with Mr. Tim Howard, attorney Tim Howard at Howard
11 and Associates.

12 And then these other funders that we've just learned
13 about recently that we haven't served discovery upon yet: Cash
14 4 Cases, Universal Funding, we believe is the funder that
15 Atlas sold its -- some of its contracts to, Krunchcash, Prime
16 Cash Funding, and Multi Funding USA.com. So if given the
17 opportunity, we would like to also propound discovery requests
18 upon those entities.

19 THE COURT: What do you think it's going to show? I
20 mean, I know that you've asked me for it but you have to have
21 some idea what you expect to receive. What kind of
22 information do you expect to receive?

23 MS. BENEDETTO: We expect that those funding
24 arrangements were of similar character as the ones that I'm
25 going to show Your Honor that are similar to this Cash 4

1 Cases, in that they are couched as assignments, which we
2 submit are prohibited by the settlement agreement. And that
3 if they are somehow deemed to not be assignments, that they
4 are at interest rates that are of the level of being usurious.

5 THE COURT: Well, were these transactions -- did
6 these transactions occur before the settlement was reached or
7 after a settlement was reached?

8 MS. BENEDETTO: Most of these assignments occurred
9 in the timeframe of the 2016-ish time period. So that would
10 be certainly after Your Honor granted final approval. Most of
11 them, it seems, required some sort of medical records before
12 they would give loans. And they assumed -- they were assuming
13 that a player would obtain a qualifying diagnosis of a 1.5 or
14 a level 2 before they would lend these monies.

15 THE COURT: Okay.

16 MS. BENEDETTO: So moving to RD Legal. They have
17 seven class members that they have contracted with. And as
18 Your Honor knows, they titled their instruments as
19 assignments. And in one particular contract, the class member
20 purports to assign \$425,000 of his potential future monetary
21 award in exchange for receiving less than half of that amount,
22 \$202,000.

23 And although RD Legal didn't formally respond to any
24 discovery requests concerning solicitations, we did already
25 have their agreements by virtue of the fact that they had

1 publicly filed them in the case pending before Judge Preska in
2 SDN -- in the Southern District of New York, the Consumer
3 Financial Protection Bureau and New York Attorney case against
4 RD Legal. So we did have those seven contracts.

5 However, the Consumer Financial Protection Bureau did
6 provide co-lead class counsel with a deposition transcript for
7 one of the class members who contracted with RD Legal that the
8 government took. And that particular class member testified
9 that he learned about RD Legal as a result of receiving a call
10 from a fellow player, someone who he had no prior relationship
11 with but who was a fellow retired player. And this gentleman
12 was endorsing RD Legal. And the deponent testified that five
13 minutes after he hung up with the former -- the fellow retired
14 player, Mr. Roni Dersovitz of RD Legal called him on the phone
15 and he told him he could beat any rate out there. That he had
16 -- that this particular deponent had a loan with Peach Tree.
17 He could beat Peach Tree's rate. He said if this particular
18 deponent referred other retired players to RD Legal, that he
19 would pay him a percentage of whatever amount he loaned to
20 those players. And he wanted him to sign with a lawyer that
21 day.

22 Now, this particular deponent already had a lawyer, so he
23 didn't need to sign with a lawyer. But Mr. Dersovitz wanted
24 him to do that because in order for these loans to have force
25 and effect, a lawyer for the client has to sign off. So this

1 gentleman is 51 years old. He has Parkinson's disease. And
2 he has stage 4 throat cancer. And he did contract with RD
3 Legal. And he -- in exchange for receiving \$343,000, he's
4 going to be giving up \$665,000 of his future monetary award.

5 And in addition to his testimony concerning the manner in
6 which he was solicited, there was also testimony at his
7 deposition as to certain irregularities both he and his lawyer
8 actually gave testimony at the deposition as to certain
9 irregularities with how the contract was signed. So that's RD
10 Legal.

11 And, Your Honor, we will obviously be consistent with
12 what was filed on -- the joint letter that was filed on
13 Friday. We will be participating in the briefing on that --
14 on the issue that Judge Preska has referred to Your Honor.

15 I'll move on to Atlas, and they have --

16 THE COURT: You have no relationship with the action
17 that's in -- before Judge Preska, do you?

18 MS. BENEDETTO: Only to the extent, Your Honor, that
19 we have filed before -- we had filed before Judge Preska a
20 Motion to File an amicus brief there. And we also had
21 suggested to Judge Preska, you know, in the alternative that
22 perhaps with respect to those that RD Legal -- with respect to
23 the NFL players that RD Legal had lent to, as distinguished
24 from Zadroga claimants that RD Legal lent to in the case
25 before Judge Preska, that as to any interpretation of the

1 settlement agreement in the NFL Concussion litigation which is
2 before Your Honor, we suggested that Judge Preska refer the
3 issue -- that limited issue as to whether assignments are
4 permitted under the settlement agreement before Your Honor and
5 that she -- Judge Preska agreed to do so. And that's why we
6 filed the joint letter concerning how the -- how we proposed
7 the briefing will be conducted before Your Honor on that
8 issue.

9 THE COURT: All right. I'll have to discuss that
10 with you at -- perhaps after the hearing.

11 MS. BENEDETTO: Certainly, Your Honor.

12 THE COURT: Whether or not -- if she rules that the
13 loans or assignments are illegal, then there's really not much
14 for me to do, is there?

15 MS. BENEDETTO: I believe she referred that issue to
16 Your Honor.

17 THE COURT: No, she's going to decide in general, is
18 she not, whether they -- these are valid assignments or loans.
19 She's going to -- in that lawsuit, isn't she going to decide
20 -- nothing to do with my case.

21 MS. BENEDETTO: Her lawsuit in the first instance,
22 the lawsuit before her, I believe there's currently a Motion
23 to Dismiss filed -- that was filed by RD Legal concerning the
24 Constitutionality of the Consumer Financial Protection Bureau.
25 And that's, I believe, what's currently before Judge Preska.

1 And my understanding is that what Judge Preska had referred to
2 Your Honor was the very discreet issue as to whether the NFL
3 Concussion litigation settlement precludes assignments and
4 that such assignments --

5 THE COURT: Okay.

6 MS. BENEDETTO: -- pursuant to Section 30.1, whether
7 they would be void.

8 THE COURT: You can just go on.

9 MS. BENEDETTO: Okay.

10 THE COURT: We'll discuss that. Okay.

11 MS. BENEDETTO: With regard to Atlas, Your Honor,
12 they have assignments with 38 players. One particular player,
13 for an advance of \$10,000 will ultimately owe Atlas back over
14 \$17,000. They claim a monthly -- it's a monthly interest rate
15 of 2.75%, but that's actually an annual interest rate of 33%.
16 This is just an internet calculator as to the compounded
17 interest percentage and it reflects that that would be
18 actually a 33% interest rate. But if you look on the
19 contract, it's stated as -- it's 2.75%.

20 Now, I think certain -- in particular, someone who maybe
21 have neurocognitive impairment might not understand the level
22 of an interest rate that they're paying when they see that
23 2.79 and not appreciate that that's a monthly rate, not an
24 annual rate.

25 The next is Global Financial. 47 class members have

1 contracted for an assignment with that entity. And this
2 particular class member received \$2,000 and will owe Global
3 Financial, if and when he receives a monetary award, over
4 \$3,500. They also charged a fee of \$575 on a loan of 2,000.

5 We come to Justice Funds. So this is the entity that is
6 similar to Case Strategies Group, refusing to provide us with
7 any information absent a subpoena. However, one of the
8 brokers did provide one of the -- this particular broker, when
9 it refers to the funder for a loan obtains a copy of the
10 funding agreement. So we do have a copy of a Justice Funds
11 funding agreement. In this particular instance, the class
12 member received \$25,000 and after one year, he will owe
13 Justice Funds over \$37,000. And they charged a fee of \$4,400.

14 Moving on to Thrivest. They have funding arrangements
15 with 42 class members. One of those has an assignment to pay
16 back Thrivest \$567,000 for an advance of \$312,000. They
17 actually charged fees of over \$8,200.

18 Peachtree, we haven't obtained discovery from yet. HMR
19 Funding, this is -- it's a different type of relationship.
20 This entity purchases medical receivables. So instead of the
21 law firm advancing the client whatever costs to have the
22 medical evaluation done, and these were all done before the
23 BAP opened. So all of these class members were tested prior
24 to the effective date of the settlement. So the funding
25 company pays the doctor for the evaluation and then they

1 obtain a lien. And the -- suffice it to say, the amounts that
2 they were paying these doctors were thousands of dollars more
3 than what the BAP exams cost or even advanced.

4 THE COURT: And these will be submitted? These will
5 be legitimately submitted for reimbursement? I mean, will the
6 conclusions of these doctors be used to interpret the -- to
7 interpret whether or not the players will receive benefits?

8 MS. BENEDETTO: Presumably. That was the law firm's
9 intent. There's a few law firms that have used this HMR
10 Funding.

11 THE COURT: Well, did it happen before the cutoff
12 date or after the cutoff date?

13 MS. BENEDETTO: Before the cutoff date. So
14 presumably, these are the doctors' opinions who will be
15 submitted as the qualifying diagnosis for these particular
16 players.

17 THE COURT: Okay. Do you know who they are?

18 MS. BENEDETTO: Yes.

19 THE COURT: Who the doctors are?

20 MS. BENEDETTO: Yes, we do.

21 THE COURT: Okay. I assume that the NFL will have
22 something to say about that. Okay.

23 MS. BENEDETTO: Trial Funder is an entity that was
24 affiliated with the lawyers who are now calling themselves the
25 sports concussion lawyers. They were formally known as Top

1 NFL Lawyers. And they represent 221 class members as per the
2 claims administrator registration data. And they've -- we
3 propounded discovery upon them and they've basically said that
4 they have released the one player who they had loaned money
5 to. And the other two players, they forwarded to another
6 lender and refunded the broker fee. So it's their position
7 that they are not in any type of a conflict situation at that
8 point. But we present it to Your Honor for what it's worth.

9 The next funder is Cambridge Capital. As Your Honor may
10 recall from the Motion to Compel that we filed against Mr.
11 Howard and his firm, Howard & Associates, and also against
12 Cambridge Capital because they had, similar to Case Strategies
13 Group, taken the position that absent a subpoena, Your Honor
14 could not order them to provide discovery responses. So we
15 did present to Your Honor in our Motion to Compel one of the
16 class members, we called him John Doe for purposes of the
17 Motion to Compel, his lending arrangement with Cambridge
18 Capital. And they, as RD Legal, couched their instrument as
19 an assignment.

20 In this particular instance of Mr. Doe, he was assigning
21 \$110,000 for an advance of \$60,000. The difference between
22 all of the other funders and Cambridge Capital is the fact
23 that Cambridge Capital doled out monies on month -- in monthly
24 disbursements to the class members to whom it gave funding.
25 We don't have any idea how many class members got funding

1 arrangements with Cambridge Capital. We noted in our papers
2 on the Motion to Compel that Mr. Howard's law firm and the
3 Cambridge Capital company have identical locations. And
4 Cambridge actually touted its -- this is Mr. Doe's funding
5 arrangement. Cambridge actually touted itself as -- that
6 players could benefit from its ancillary legal services for
7 little or no additional cost via our direct association with
8 Howard & Associates.

9 The Howard law firm actually sent out an e-mail to
10 retired players, encouraging them to retain Howard and also
11 advising them that you may qualify -- if you qualify for the
12 NFL settlement, we can refer you to an independent cash
13 advance program that may offer immediate cash based upon your
14 proposed settlement. And this is from the law firm.

15 And then -- so that was in -- that was on June 23rd of
16 2017. And following Your Honor's issuing the order in July,
17 in August of 2017, the law firm backpedals and says, "As
18 previously recommended, advances on your claims are not
19 advised" -- here we go -- "advances on your claims are not
20 advised as they are very expensive." So we felt this was
21 something that should be presented to Your Honor for your
22 consideration. Now I come to the claim service providers and
23 we initially learned of three of them but the third one,
24 Concussion Case Management, who we did serve with discovery,
25 it appears that they actually didn't -- weren't retained by

1 any clients. So the two that actively retained class members
2 were Legacy Pro Sports and Case Strategies Group. We've
3 talked about Case Strategies Group, they're the one with the
4 1292(b) motion before Your Honor. They were formerly known as
5 NFL Case Consulting. And the similarities between the two
6 entities are that they both charge 10 to 15% of potential
7 future monetary awards. They refer their clients to specific
8 law firms for another percentage fee from the law firm
9 obviously, and they stand to make million of dollars from what
10 is basically little effort.

11 And on the left hand side of this slide are the law firms
12 we've served discovery with, who are affiliated with Legacy
13 Pro Sports and Case Strategies Group. Those law firms, and in
14 addition the law firms that are associated with the
15 solicitations using Mr. Pisarcik, for the most part it's
16 important to note that those law firms came on the scene
17 after, for the most part, though maybe a couple of retentions
18 prior -- but for the most part after the Supreme Court denied
19 the petition for certiorari in January of 2017. So we think
20 that's an important fact to keep in mind. And just as an
21 example, so these claims services providers, for a class
22 member who's under 45, you know, with a level 2 qualifying
23 diagnosis and no set-offs, the claim service provider would be
24 paid \$300,000, for basically getting some documentation
25 together and pointing them toward a lawyer. The first entity,

1 Legacy Pro Sports, they were -- it was founded by a retired
2 player, Mr. Brandon Siler and a college friend of his, Mr.
3 Ryan Sherry. They actually did respond to the discovery
4 requests. They provided thousands of pages of documents,
5 emails, text messages, other documents, and Mr. Siler and Mr.
6 Sherry also gave their depositions. This business basically
7 began with somewhat of a noble purpose in that they initially,
8 for a fee, but they would help players get disability benefits
9 and grants from the NFL, but once the concussion settlement
10 came into being it morphed into more of a concussion
11 settlement driven business. At the time they responded to
12 discovery they represented 316 class member clients, and they
13 don't charge an hourly fee, they don't charge a flat fee, they
14 charge a percentage like a law firm. They also actively
15 recruited players who became clients to then serve as
16 independent contractors to recruit other players to sign up
17 with Legacy Pro Sports. And they would pay them \$200 per
18 contract they closed, plus 1% of whatever that other retired
19 player's potential future monetary award is. So in other
20 words, they would pay the independent contractor 10% of the
21 10% that Legacy Pro Sports would be receiving. And so they
22 initially referred their clients to Dolan, Dobrinsky,
23 Rosenblum and Kushner & Kushner. Those two firms were on one
24 retainer agreement. It was 15% up to a million, and then 10%
25 anything over a million, and then later on they also began

1 referring their clients to a Kagan Law. They obtained a
2 contacts list of 15,000 retired players and they began cold
3 calling them, using their independent contractors. Initially
4 they had attempted to have an arrangement with the law firms
5 whereby they would basically share fees with the law firms.
6 They were told they couldn't do that, so then they basically
7 had their own agreement for 10%, and then the law firm's
8 agreement for 15%/10%, and Legacy Pro Sports would send out
9 both agreements together to the client and say here you go,
10 sign our agreement and sign an agreement with this lawyer. In
11 March of 2017, LPS began referring clients to -- this Kagan
12 Law, and based upon documents produced in discovery,
13 apparently Ms. Kagan agreed to give Legacy Pro Sports \$50,000
14 to pay for two women employed at Legacy Pro Sport's salaries,
15 conditioned upon Legacy Pro Sports referring any clients they
16 closed contracts with to Kagan Law. Based on the testimony at
17 the deposition, and one of the deponents, Mr. Sherry, actually
18 was untruthful at the deposition which his lawyer told me
19 immediately thereafter, and he had Mr. Sherry sign a
20 declaration. During the deposition he had attempted to
21 explain away this Kagan Law \$50,000 agreement, but after the
22 deposition he told his lawyer that he had been untruthful, and
23 then he signed a declaration basically clearing up that it was
24 a quid pro quo. Kagan Law paid them \$18,000 to -- as long as
25 they would refer any clients closed by these two particular

1 employees to Kagan Law. There's also evidence based upon text
2 messages produced by this entity that it would tout itself to
3 players as able to enable them to beat the test, basically to
4 appear to be neurocognitively impaired when the player was
5 not. And so these are just some of the emails back and forth
6 between the law firm and Legacy Pro Sports, where Legacy Pro
7 Sports is basically negotiating with the law firm as to what
8 the law firm will charge its clients so that Legacy Pro Sports
9 could basically package it up as a 20% fee, 10% going to
10 Legacy Pro Sports and 10% going to the lawyer. In fact,
11 initially they had suggested that their clients go to a
12 different law firm other than the DDR and Kushner Law Firm,
13 but then they decided to go with this other law firm so they
14 -- so that they were switching their clients to a different
15 law firm. And the one law firm, DDR, did advise Legacy Pro
16 Sports that it should not cold call, that it should only reach
17 out to players with whom it had a pre-existing relationship,
18 but obviously once Legacy Pro Sports obtained the contact list
19 for these 15,000 players they began a robust campaign to
20 enlist more clients. And there's also evidence in the
21 documents produced that Kagan Law also assisted in this
22 coaching of retired players. Ms. Kagan's husband is
23 apparently a doctor and is affiliated with a neurologist, and
24 they studied, apparently, other players' testing results and
25 used that as a teaching tool basically to help players ensure

1 that they got a qualifying diagnosis whether in fact that was
2 appropriate or not. And Kagan Law has 163 class member
3 clients and no retentions prior to March of 2017, most after
4 April of 2017. This is the other law firm, the Dolan,
5 Dobrinsky, Rosenblum and Kushner & Kushner. They're together
6 on the same retainment agreement and they have 132 class
7 member clients.

8 Now we come to Case Strategies Group, the entity formerly
9 known as NFL Case Consulting. We've discussed this a few
10 times that this entity has sought for the 1292(b)
11 interlocutory appeal. As I believe Chris mentioned, you know,
12 we're -- should the court certify the order for interlocutory
13 appeal --

14 THE COURT: You don't have to. You don't have to
15 discuss that.

16 MS. BENEDETTO: Okay. So they have approximately
17 -- we believe they have approximately 140 clients based upon
18 the law firms to whom they referred clients, and there are
19 several of those, Reich & Binstock has 48 class member
20 clients; no retentions prior to April of 2017. Farrell &
21 Patel, 39 class member clients. They didn't produce
22 discovery, they refused. They said that they're a third party
23 and that we're required to serve them with a subpoena. Jesse
24 Dean-Kluger, PA, 28 class member clients. They didn't provide
25 information as to the date of retention, and Ronald T. Bevans

1 has 15 clients. MCCall Atten has 10 class member clients.
2 This is an interesting language inclusion in their retainer
3 agreement. As the court's aware, there's -- in the settlement
4 agreement reference to a 5% holdback, which is supposed to
5 come out of a represented class member's lawyer's piece.
6 Well, they structured their retainer agreement such that is
7 the court does order a 5% holdback, that then the law firm is
8 entitled to 5% more, so -- such that basically the class
9 member is paying for the 5% holdback, not the retained lawyer.
10 And finally we come to the law firms using Mr. Pisarcik. We
11 were aware of the email and letters that were sent out and
12 that they were included as part of the evidence in the motion
13 that we had filed back in June, but what we didn't know was
14 the fee arrangements with Mr. Pisarcik. These particular law
15 firms together have represented 333 class members, they have
16 retainers of between 33 1/3 to 40%, and they had no retentions
17 prior to November of 2016. In May of 2017, they signed an
18 agreement to pay Mr. Pisarcik \$200,000 in monthly
19 installments, and they also signed agreements to pay Mr.
20 Pisarcik bonuses, \$50,000 for the first 25 clients with
21 qualifying diagnoses, and \$75,000 for each subsequent set of
22 25 clients who receive qualifying diagnosis. These firms had
23 92 clients before the Pisarcik campaign and were retained by
24 an additional 241 clients after the Pisarcik campaign. Mr.
25 Pisarcik did sit for his deposition and he testified that he

1 did not approve of the email solicitations or the letters
2 before they went out. In fact, there's back and forth emails
3 that were produced by Mr. Pisarcik and the law firms where Mr.
4 Pisarcik was actively involved in the language which he would
5 approve would be in the emails and letters, and then those
6 mailings and emails went out without his prior approval and
7 language that Mr. Pisarcik testified even he viewed as
8 misleading. So in conclusion, Your Honor, we would like to
9 continue these discovery efforts. If given the opportunity we
10 would send out additional discovery requests, file motions to
11 compel. Certain counsel for the respondents have asked us,
12 you know, "what can our clients do to rectify this and maybe
13 we would be willing to lower our contingent fee." You know,
14 "maybe we might be willing to charge on a different basis.
15 Maybe we might be willing to charge hourly instead of on a
16 percentage basis," and we -- our response has basically been
17 that we need to present all the facts to the court so that the
18 court is fully aware and that we, you know -- we didn't feel
19 authorized to engage in sort of blessing a fix.

20 THE COURT: What do you expect the court to do?

21 MS. BENEDETTO: We would hope, Your Honor, that
22 perhaps these entities could work, maybe with a special
23 masters to try to come up with a --

24 THE COURT: I'm not talking about settlement. What
25 -- right now you've come -- you know, I've asked you to

1 present this. Assuming that I accept what you've said, and
2 I'm not so sure that that's going to happen, but what would
3 you expect from me and what would you like me to do? What
4 kind of -- would you want me to do an order, do you want me to
5 refer this to the U.S. Attorney? What do you want me to do?

6 MS. BENEDETTO: I think we'd like to continue the
7 discovery efforts, Your Honor, and package everything up and,
8 you know, perhaps make recommendations based upon a full
9 record.

10 THE COURT: Well, there's no question but when you
11 start this you must have some idea -- or maybe Mr. Seeger
12 would like to address this. I know that you're doing the --
13 just the presentation --

14 MS. BENEDETTO: Yes, Your Honor.

15 THE COURT: -- maybe he would like to address that.
16 Okay? All right.

17 MR. SEEGER: Yes. So, Your Honor, I mean so what
18 we're seeing from this brief presentation, and in fairness to
19 people sitting in the courtroom and reading this, this is our
20 -- this is what we are seeing. There may be another side to,
21 and in fact, I really hope there is to be honest with -- it's
22 the last thing I want to do is spend my time going after this
23 kind of stuff. But at the end of the day, I think we are
24 going to seek to come to Your Honor, ask for specific relief.
25 Some if it may involve reference for criminal investigation

1 because if in fact there's a falsification of documents,
2 testimony is being tampered with, claim forms are being
3 falsified, that's a very serious issue because it threatens to
4 bog down the settlement in things that the settlement
5 shouldn't be involved in. Right now we need to be prosecuting
6 -- I'm sorry -- you know, processing claims for the people who
7 started this lawsuit for. It was started for the people who
8 were the most -- the sickest ones who needed help now. Now,
9 right now this isn't interfering with the settlement process
10 but if claims are coming through that are fraudulent, that's
11 going to tie up our time and the NFL time and we -- and Orran
12 Brown's time on -- from BrownGreer. We don't want that to
13 happen. So there are going to be -- there could possibly be
14 reference for criminal investigation. There may be sanctions.
15 If we have to investigate this for many months and spend a lot
16 of lawyer time on this, and it turns out that somebody's doing
17 something inappropriate we may ask Your Honor to reimburse
18 both sides for attorney's fees related to that.

19 THE COURT: Well what do you want me to do? Do you
20 want me to sign an injunction --

21 MR. SEEGER: I -- yes.

22 THE COURT: What do you want me to do? Do you want
23 me to direct BrownGreer to -- not to pay these? I mean what
24 is your --

25 MR. SEEGER: I don't think --

1 THE COURT: Where's your end point? That's what I'd
2 like to know.

3 MR. SEEGER: Okay. The end point may be there. I
4 don't think we're there right now. I think right now what we
5 would like Your Honor to do is to extend her order, which I --
6 you know, to allow us a little bit more discovery, a little
7 bit more time to build a record and to make a formal
8 submission to Your Honor. The parties can respond to it who
9 are involved, the ones that we think are involved in some of
10 the -- this conduct, and then have another hearing shortly
11 down the road. So I'm probably going to be talking about a
12 scheduling order and, you know, we're going to have to deal
13 with -- I mean, obviously we've got some entities that are not
14 responding to discovery. I don't think they understand that
15 Your Honor has the authority to order discovery.

16 THE COURT: Well the thing that concerns me is that
17 I have no problem -- would have no problem in directing
18 BrownGreer not to pay certain things. That should not be a
19 big problem.

20 MR. SEEGER: Right.

21 THE COURT: But then after the parties get their
22 reward -- awards if they're entitled to it, then what happens?
23 I mean is that what I'm supposed to be adjudicating or am I
24 just supposed to be adjudicating what BrownGreer does?

25 MR. SEEGER: No, I think you have the ability to

1 adjudicate all these issues, which would be if necessary, I'm
2 not there yet. I don't -- look, I don't want to -

3 THE COURT: Okay. I'm not -- I want to know what
4 you're thinking.

5 MR. SEAGER: What the end game is here?

6 THE COURT: Yes.

7 MR. SEAGER: The end game will ultimately be if we
8 find wrongdoing, we will ask you to approve obviously the
9 payment of claims to the NFL retired players, but to hold all
10 these other funds in abeyance while we litigate over it. That
11 would include the fees of claim service providers, attorneys
12 that are associated with this, and not to allow disbursements
13 from awards to lenders who we think have been involved in some
14 of this conduct.

15 THE COURT: Well do -- have any of those lenders
16 asked for reimbursement?

17 MR. SEAGER: Well, I would imagine that they -- I
18 mean, that's a good a question --

19 THE COURT: I don't what the answer --

20 MR. SEAGER: -- for BrownGreer. I don't know if
21 Orran Brown is here in the courtroom but I'll find out. It's
22 my understanding that lenders have reached out to BrownGreer
23 to make them aware of an interest and an award, okay? Whether
24 any of those have been paid to date, I doubt they have but
25 I'll -- I will double-check that.

1 THE COURT: Okay. All right.

2 MR. SEEGER: And if they have we'd obviously -- we'd
3 look to claw that money back until we resolve this.

4 THE COURT: I'll explore this issue a little further
5 with you.

6 MR. SEEGER: Yes.

7 THE COURT: And I'm not going to put you on the spot
8 now --

9 MR. SEEGER: Yes.

10 THE COURT: -- but I will -- that's of concern to
11 me --

12 MR. SEEGER: Yes.

13 THE COURT: -- about what a judge can do and if
14 there's any precedent for judges doing certain -- taking
15 certain steps to try and prevent some of this --

16 MR. SEEGER: Yes.

17 THE COURT: -- if, in fact, they're valid.

18 MR. SEEGER: Right. And may I just say this, Your
19 Honor? I mean, I want to make this really clear. I mean, we
20 are looking to protect the players, not to make more problems
21 for players. We believe that if these things have gone on,
22 the players are victims. They're not involved in it because,
23 you know, some of these players are really -- well, first of
24 all they have neurocognitive problems and they're being taken
25 advantage of. But there are other players that we have to

1 just recognize are, if not destitute close to it, and all are
2 struggling with medical expenses, bills, and living. So we
3 don't want to implicate the players in this. I want to focus
4 on the predatory conduct.

5 THE COURT: Okay. Thank you.

6 MR. SEEGER: Thank you.

7 THE COURT: All right. Would the NFL like to be
8 heard?

9 MR. KARP: Just very, very briefly, Your Honor. As
10 Your Honor would expect, we fully support the efforts of class
11 counsel to investigate these issues, to dig into these issues.
12 Our goal today is the same as it was at the outset of this
13 process. We want to see to it that the settlement payments
14 are made to deserving NFL retired players who are members of
15 the settlement class. To the extent that there are
16 unscrupulous lawyers or lenders out there that are taking
17 money that rightfully belongs to the retired NFL players and
18 putting that money in their pocket, that's something that is
19 anathema to everything that the NFL is seeking to achieve, and
20 frankly everything that Your Honor, as the judge
21 superintending this historic settlement, has tried to achieve.
22 And what's particularly concerning to the NFL is also the
23 suggestion that Chris and Terri raised today that there are
24 lawyers and others out there who appear to be counseling
25 claimants on how to cheat the system. We don't have detailed

1 evidence of that yet, but we do anticipate returning to Your
2 Honor at a future time and laying out what we have discovered,
3 because nothing is more important to the NFL in the context of
4 this settlement, and nothing is more important to Your Honor
5 in the context of superintending this settlement than making
6 sure that everything is above board, that there is no fraud,
7 that deserving players recover funds, and that any retired
8 players who are members of the class who are trying to cheat
9 the process and cheat the NFL are detected and prosecuted to
10 the fullest extent of the law. That's in the NFL's interest.

11 THE COURT: Okay. Thank you.

12 MR. KARP: Thank you, Your Honor.

13 THE COURT: All right. I don't think there's -- if
14 you wish to respond?

15 MR. SEEGER: I just want to update what I said
16 because Mr. Brown actually is in the courtroom. So because
17 these are not recognized as valid liens, these loans that are
18 being made and we don't recognize assignments, it could be
19 that some of the lenders are not notifying Mr. Brown of their
20 interest in the settlement amounts. So they may be as these
21 claims get paid, looking to seek recovery from the players.
22 So I think that just moved up our timeline. We need to figure
23 this out really quickly.

24 THE COURT: Well, that's -- Mr. Brown, that's -- I
25 recognize you, I know who you are.

1 MR. BROWN: Good morning, Your Honor.

2 THE COURT: Thank you very much. First of all,
3 thank you for coming to the hearing.

4 MR. BROWN: Thank you.

5 THE COURT: And for your really excellent job that
6 you've done in trying to implement this and move it forward,
7 and I appreciate that very much. And it's really been -- it's
8 really nice working with you.

9 MR. BROWN: Thank you, Your Honor.

10 THE COURT: So I appreciate, and this will work out
11 no matter how I determine it, and you will be involved in any
12 way that you can be helpful.

13 MR. BROWN: Yes, Your Honor. We'll certainly help
14 in any way we can, and I was just telling Mr. Seeger we have
15 not paid any liens to any of these funding groups. When a few
16 had contacted us and asked us to give them information, give
17 them information on their clients, and we told them that's
18 confidential. We've also told them that the settlement
19 agreement prohibits the assignment of claim recovery, so we're
20 not recognizing liens from the groups. But as Mr. Seeger
21 said, we don't have full visibility in what they're doing with
22 the players and what are -- if a player gets an award they're
23 going to claim or get some of that money without us knowing
24 about it.

25 THE COURT: Well that's -- of course. That's

1 something that I understand and that's basically the question
2 I was asking.

3 MR. BROWN: Yes, Your Honor.

4 THE COURT: At what point -- what can I do to be
5 effective? That's basically --

6 MR. BROWN: Thank you, Your Honor. We're ready to
7 help in any way we can. Thank you.

8 THE COURT: Okay. Thank you, Mr. Brown. Appreciate
9 that. Okay. Are the lawyers for RD here?

10 MR. WILLINGHAM: Yes, Your Honor.

11 THE COURT: You are? Okay. I may see you in the
12 chambers to discuss an issue that came up at the -- at my
13 conference with RD.

14 MR. WILLINGHAM: We'll be here, Your Honor.

15 THE COURT: Okay. So I'll talk to you about that
16 after. Okay. Is there anything else? Okay. Yes?

17 MR. SEEGER: No, Your Honor. We're --

18 THE COURT: Okay. Court is adjourned and I will rule
19 on future --

20 MR. WILLINGHAM: Did you want to --

21 THE COURT: -- hearings if necessary.

22 THE COURT: I want NFL to stay if you don't mind,
23 and Mr. Seeger to stay. And if you want to stay Mr. Weiss, of
24 course you can stay and Ms. Benedetto you certainly can stay.
25 Okay? All right. Why doesn't the lawyer for RD come back

1 with me? And then if you -- I'll -- then I want to take the
2 two of you --

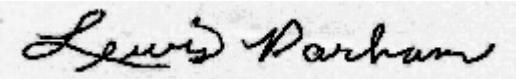
3 (Court adjourned)

4

5 CERTIFICATION

6 I certify that the foregoing is a correct transcript from the
7 electronic sound recording of the proceedings in the above-
8 entitled matter.

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10 
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9/21/17

12

13

14 Signature of Transcriber

Date